

# **MEETING SUMMARY NOTES**

## **Legislation Work Group**

*December 10, 2002*

*1:30 p.m., Room 113 - County-City Building*

**MEMBERS:** Present – Jan Gauger, Beatty Brasch, Bruce Bohrer, Bill Austin, Steve Larrick, Bruce Kevil, Ken Winston, Chris Beutler, Linda Crump, Darlene Starman, Bob Peterson, Brian Krannawitter, Allan Abbott (non-voting). Absent – Allan Hersch, Beatty Brasch

**OTHERS:** Kent Morgan, Margaret Blatchford, Corrie Kielty, Kathy Campbell, Melissa Ramos.

### **AGENDA ITEMS DISCUSSION:**

#### **1. Welcome - Jan Gauger, Work Group Chair**

Jan took a moment to thank staff for the great job they have done.

#### **2. Meeting Summary Notes - December 10, 2002**

There were no corrections to the meeting summary notes.

#### **3. Public Comment Period No. 1 (10 min. max.)**

No one came forward to make any comments.

#### **4. Design-Build Bidding Concept - HDR Rep**

The representative from HDR was not present at the meeting.

#### **5. Pro-Con Summary Review**

Gauger asked if anyone had any doubt that there is a short fall in revenue and that there is a need to look at some measure of increasing the sources. There was consensus among the group that there is a need for more resources.

The group reviewed the Summary of Pros and Cons. Bohrer suggested at the last meeting that all of the options should be sent to the larger group with a rating of the ones that the group felt were the higher priorities. There were no objections.

Gauger opened the discussion for the fuel tax. There are currently five options for increasing the fuel tax. All of these options can be recommended, however, some are long range solutions and would not solve the immediate problem. The group can encourage the City to work toward the changes, which would be to the City's advantage.

Crump asked why Omaha would not object to option two of the fuel tax. Abbott stated that if the formula is changed to help Lincoln, it will help Omaha as well. Gauger added that Lincoln contributes more to the fund than it gets back and, therefore, it is in Lincoln's and Omaha's long range interest to pursue a higher percentage. Winston asked if there was a way to modify the formula so that others would benefit as well, such as the first class cities. Abbott answered that it could be done, however, the problem is that there is a finite amount of money and trying to divide it differently will cause some to win and others to lose. Gauger asked if number three, "Added State Fuel Tax with Allocation to Cities and Counties," would raise more money than the other two fuel tax options. Abbott noted that it was his opinion that number one and number three would bring in about the same amount of money, \$1.5 to \$2 million dollars. Number two, depending on how much the formula was tweaked, would bring in less.

Nicole Fleck-Tooze joined the group in order to give additional information on the Stormwater Legislation. The group questioned if the legislation is necessary in order for the City to comply with the Federal mandate, or if there is another way in which those requirements could be met. Nicole stated that at this time Watershed is in the process of evaluating and determining the gap and future needs. The projects that have been outlined, both capital projects and operational programs, are only covered by what is in the general fund and what has been received through general obligation bonds. There is going to be a gap, and part of the issue is trying to find a source of funding which is constant but can be dedicated directly to stormwater improvements.

Nicole handed out an outline to describe what the stormwater improvements are. If they do not have the ability to get the stormwater utility the alternative is to continue increases of property tax to provide those dollars to the general fund and/or increase the level and frequency of the general obligation bond issues. Nicole reviewed the information included in the handout. Part of what is identified in the permit and the larger effort is to prevent what other communities are forced to do, they have to treat their stormwater prior to it entering the drainage system. The Enabling Legislation is provided as an alternative to communities that are required by the Federal Government to meet these guidelines.

Winston asked if the projected stormwater utility would be less of a burden than if the City decided to raise the property tax. A few weeks ago Nicole handed out a sheet showing what those differences would be. They are trying to come up with a utility that is fair and equitable, where ones contribution to the system matches what their monetary contribution is.

Peterson noted that the stormwater system is designed for a five year frequency. He asked if the system design will be changing in connection with this. Nicole stated that there are areas in the City that do not meet current standards. Part of the general obligation bond identifies capital improvements that need to be made in the existing City limits. The new standard is a ten year

storm frequency for major streets. Gauger added that once Antelope Valley is opened, it will remove the 100 year flood plain from Downtown Lincoln. Abbott informed the group that the street itself is designed to carry water. It is very cost prohibited to design 100 year storm systems everywhere. Once the stormwater system starts silting in, the five year system becomes a two year quickly.

Kevil pointed out that the permit the EPA gave required the City to sample particular fixed locations in drainage channels across the community. Kevil asked if the City had been doing that before. Nicole indicated that they had been doing that all along, and the permit bumps up the level to which they are doing it now. Another component is looking at best management practices which entail different types of buffers and things like that. They will be looking at where they are working well, where they are not, and monitoring those sites.

Gauger noted that there is a lot of land that is off the tax roll such as the University, the Housing Authority, and others. She questioned if there has been any communication with those entities so that they know this is coming. Nicole answered that there have been discussions and concerns raised by some regarding the impact this will have. There is an opportunity embodied in the draft legislation that allows for credits to be given for any kind of best management practices. Nicole anticipates that the University would have a lot of opportunities with the facilities and planning. Nationwide, there are no exemptions provided at the State level for those kinds of land uses. Typically, they are provided at the local level. Gauger added that one of the advantages to this legislation is that it encourages property owners to try to minimize the amount of discharge that they have. Nicole acknowledged that stormwater is going through a review process nationwide, where it is being realized that it is not fair to everyone for funding to come out of the general fund and property tax.

Crump asked how the legislation will help the gap. Nicole answered that most of the utility fees that are adopted nationwide tend to be between \$3.00 to \$6.00 per ERU per month. At \$3.00/ERU per month there is a generalized formula that gets about \$5.5 million dollars annually. That is at the low end of the range. Some communities have adopted a stormwater utility, but they only adopt it for their capital projects, or only for their operation programs.

Austin asked if the fee that is charged will go down during a dry year. Nicole answered that it would not. It would be difficult to determine at any time whether there would be a flood the next day. There are impacts from run off that occur in the long term like the sediment and erosion control, stream channel degradation and water quality issues. It would be set up over the long term and would not change over a year.

Gauger asked Senator Beutler about the ability of this legislation to pass. Beutler stated that it has had some fairly extensive negotiating sessions at the Legislative session. It will depend upon its content. It is not new to the interest groups, and there is a spirit of compromise. Something could be passed.

Gauger moved discussion back to the pro-con summary. The occupation tax could be put first simply because of the ability to enact without state legislation. Peterson stated that number three should be on top because it has the least opposition. The opposition hasn't surfaced on the occupation tax. Once those businesses are informed, there will be some strong opposition. Abbott suggested that if this goes forward, the recommendation should be that the League of Municipalities be approached to introduce the legislation and the City will support it. Kielty informed the group that the League's Board has voted that increasing the gas tax and the stormwater utility would be on their plate. This committee could safely decide to support the League as they move toward drafting the bills.

Kevil indicated that he does not like to put the elected officials on the spot by telling them that they have to raise the gas tax. Gauger explained that the group has the charge to recommend to them what the best options are. When the Mayor set up these groups, he knew that he might not like all of the answers. Abbott added that this is part of a package that is suppose to go forward to the City Council. It won't go forward saying that we don't need any additional revenue, these are the options and none of them are going to be popular. Crump observed that it may be necessary to partner with the State because it may not be doable for the City to take on the full burden. These philosophical issues need to be sent along explaining why the group is suggesting some of these options.

Winston pointed out that the group was suppose to focus on recommendations for State legislation. Winston moved that the options be prioritized as they are in the handout. Peterson seconded the motion and suggested that the local option be put after the state options.

- Those in favor of the Motion: Winston, Beutler, Peterson, Krannawitter, Larrick
- Those opposed: Crump, Starman, Kevil, Austin, Bohrer

Motion failed 5 to 5.

Austin indicated that he did not want to prioritize. This is an idea committee and all five options should be sent up. Gauger granted that the group was split as to whether the occupation tax should be first or whether it should be last. Abbott inquired if there was anything on the list that the group wanted to remove. Austin moved that all options be sent to the committee. Kevil seconded the motion. Winston stressed that he thought it was wrong for the group not to prioritize the options. Gauger offered that there is no great harm in stating that the group was split and that there were strong feelings both ways. Abbott observed that everyone in the group supported these ideas, however, determining which should come first is a different issue. Gauger will be presenting the report to the full committee and she will reflect the thinking of the group.

## **6. Governor's Transportation Task Force - Kathy Campbell**

Kathy Campbell attended the meeting in order to discuss the Governor's Transportation Task Force. She is the Co-Chair of the Governor's Transportation Task Force on Nebraska's Future. Currently the Task Force is at the beginning of the process, the first meeting was held on November 21, 2002. The first meeting was largely an orientation meeting, however, they did set

forth a schedule. The Governor charged the Task Force to conduct a transportation infrastructure needs assessment of highways, aviation, public transportation, rail, and railways. In addition he requested a comprehensive review of Nebraska's current transportation funding structure and an analysis of the funding that would be required to meet the transportation infrastructure needs assessment. The first importance of the Task Force is the needs assessment. That is the critical piece and that is what the Governor is particularly interested in.

The schedule that Kathy handed out shows that the first part of the year will be used to provide a background of education for all of the Transportation Task Force members. This will give every member a background in various topics. They will also be working on bringing in national speakers. Anyone is welcome to attend the meetings, they will run from 10:00 to 4:00 and will be posted on the Nebraska Department of Roads website. This will not be an opportunity for public comments. It will be the time for the Task Force members to ask questions, debate, and discuss among themselves. Any visitor can provide information in writing to the Task Force at any time or can pose questions in writing. There has been interest from the State Senators who would like to attend the public hearings. There will be 10 to 12 public hearings scheduled in June, July, and August throughout the state. They hope to have a schedule of the public hearings at the January briefing.

The Transportation Task Force came about from an organization called "Nebraska on the Move," which was a coalition of groups interested in infrastructure needs across the state. Allan Abbott was a member of the group. The blueprint for this came from Kansas, who has done this in 1994 and then replicated it in 1998. They are currently talking about beginning a third Transportation Task Force. The Nebraska group is not replicating the Kansas Group, however, they are looking at Kansas to get some ideas. During the Kansas Task Force, the public hearings were very important. The Task Force will gather information from across the state but will not prioritize it, that will be the job of the Governor and the Legislature.

The group met with counties, municipalities, and others and asked them to submit a resolution in order to get ready to go to the Governor. Nearly 200 resolutions were submitted from business groups, cities, and counties from across the state urging that such a study be done. The Governor's emphasis to the Task Force is the needs assessment. In the Kansas study communities developed video tapes and very extensive information to give to the Task Force members. They are encouraging as many of the Task Force members as possible to attend the hearings and listen to the information.

The Nebraska Department of Roads will be the agency that is the official recorder of all of the sessions and all public hearings. It will be their responsibility to compile the information that is received. In October and November, the Task Force will review the report from Roads and provide any other information to the Governor that the committee feels is pertinent to a financial package. In the April 23<sup>rd</sup> session, they are going to try and bring in some people to provide different financing options. Abbott noted that Nebraska on the Move looked at the needs across the state. The Department of Roads have been setting their priorities off of a needs study that was done in 1988. Allan felt that the urban needs of the state were under stated by the nature of

what was needed to put together a consensus on the 1988 plan. The money is divided amongst the state on the basis of the needs study.

Campbell hopes that there will be a great amount of testimony from a number of groups involved in this. There has been a lot of interest in this from across the state. Gauger asked if the Task Force will be looking at the fairness of the funding, additional needs, and additional resources because they will find that there is a great deal more need than there is money available. Campbell answered that would come under the April meeting. That the package that Kansas went with was a combination in which the community would put in money and the state would match it, and in 1998 they had a combination as well.

Beutler inquired if under the current system, the State is required to follow the 1988 study. Abbott answered that the State would not recognize the updated study until it was adopted by the Legislature. About four or five years ago, when it was said that the expressway couldn't be built because it would damage the rest of the system too much, it was changed to say that 25% of the money went to the interstate, 25% went to the expressway system, and 50% went to the rest of the highways. The rest of the highways are then divided under proportion of needs. Every year the Department of Roads goes out and rates its roads system and determines what the needs of the state are and then divides the money up on that basis.

## **7. Submission of Materials to Infrastructure Finance Committee**

Gauger will report to the overall committee that there was concurrence from this group to support all five recommendations for fuel tax increases. There were some that felt that because of the ease of adoptions, the occupation tax might be the most easily adopted, but there was support for all five.

Gauger asked the group if there is sufficient need for the Design-Build to be an option. Austin noted that there would need to be a change to the City Charter. The group was in agreement that this option be included.

Gauger introduced the option of increasing state MIRF funds to cities. The group was in agreement that this option be included.

Gauger introduced the Stormwater Utility Fee option. Bill Austin stated there should be a different approach, and it takes away a piece of the tax exemption for those people who do not have to pay property tax for whatever reason. Bohrer asked if the pros and cons could be modified as one of the pros states that the funding source is not stable. He suggested that during those years in which they can't let the bond, the stormwater management could be a part of the City budget and just levy a certain amount. Abbott stated that a third alternative could be to establish a levy at property tax level. Bohrer clarified that the way the pro reads, it sounds as if it is the only way to have a stable source. Kevil suggested adding a description in that says O & M comes from operating funds and capital comes from property tax. Morgan explained that the City's primary operating funds are property taxes and sales tax.

Gauger questioned if another alternative should be recommended for stormwater. Kevill explained that another funding alternative would be that O & M funding comes from sales or property tax and property tax can fund capital improvements. Bohrer noted that during previous discussions it was stated that the utility fee was a mandate, now it appears that there are other options out there. Abbott reiterated that the mandate is there, it must be funded. How it is funded is not mandated. Gauger stated that the group supports the enabling legislation that gives the City the broader execution of raising the money because it gives an option that the City does not presently have. Bohrer pointed out that in the pros and cons of the other options, they are related to process, however, these pros and cons are related to substance. If the group is just saying this should be an option, the pros and cons need to be changed to reflect that. Bohrer stated that he did not have enough information to support the pros and cons as listed. Allan offered that the pro could be enabling the legislation that would allow the City more opportunity to fund per the Federal mandate. The con could be if this is not done, it eliminates the source of funding. The group was in agreement to forward this option to the Infrastructure Finance Committee with one dissent.

Gauger introduced the Federal Reauthorization Legislation option. Gauger would like the last con to be removed. The group was in agreement that this option be included.

## **8. Other Business**

Jan thanked the group for the time spent working on this. She believes that it is likely that the group may be called back into session to consider other options.

## **9. Public Comment Period No. 2 (Time Permitting)**

No one came forward to make any comments.

## **10. Adjournment**